

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CIV 16-0598 LH/KBM
CR 13-0569 LH

ISAAC ARAGON,

Defendant-Movant.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

The Chief Magistrate Judge filed her Proposed Findings and Recommended Disposition ("PFRD") on October 19, 2016 (*CV Doc. 6*) and on October 21, 2016 (*CR Doc. 69*). The Magistrate Judge thoroughly reviewed the record in both the criminal and civil actions and determined conclusively that Mr. Aragon is not eligible for relief pursuant to § 2255. Specifically, in her PFRD she found that

his sentence was unaffected by any residual clause under the ACCA or under the career offender sentencing guideline. Those provisions played no role in calculating or determining the sentence Aragon was to receive. Because Johnson dealt solely with the validity of an enhanced sentence based upon an unconstitutionality vague residual clause, it has no applicability to the 77-month sentence imposed by Judge Hansen.


PFRD at 3. On that basis, Judge Molzen recommended that I deny the §2255 Motion.

The proposed findings notified the parties of their ability to file timely objections by November 7, 2016, and that failure to do so waives review. To-date, Defendant-Movant has not filed any objections, and there is nothing in the record indicating that the proposed findings were not delivered.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Chief Magistrate Judge's Proposed Findings and Recommended Disposition is **adopted**;
2. Mr. Aragon's motion pursuant to § 2255 is denied, and this action dismissed **with prejudice**; and
3. A final order will be entered concurrently herewith.



SENIOR UNITED STATES DISTRICT JUDGE